



General Assembly

Substitute Bill No. 6752

January Session, 2015



AN ACT EXTENDING THE FORECLOSURE MEDIATION PROGRAM.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Subdivision (1) of section 49-31k of the general statutes is
2 repealed and the following is substituted in lieu thereof (*Effective July*
3 *1, 2015*):

4 (1) "Mortgagor" means: (A) The owner-occupant of one-to-four
5 family residential real property located in this state, which is the
6 primary residence of such owner-occupant, who is also the borrower
7 under a mortgage encumbering such residential real property, or if not
8 the borrower under such a mortgage, the owner of such property by
9 virtue of an event described in 12 USC 1701j-3(d)(3), (5), (6) or (7),
10 except an heir or occupying nonowner of a property encumbered by a
11 reverse annuity mortgage, [which is the primary residence of such
12 owner-occupant,] or (B) a religious organization that is (i) the owner of
13 real property located in this state, and (ii) the borrower under a
14 mortgage encumbering such real property;

15 Sec. 2. Section 49-31l of the general statutes is repealed and the
16 following is substituted in lieu thereof (*Effective July 1, 2015*):

17 (a) Prior to July 1, [2016] 2019: (1) Any action for the foreclosure of a
18 mortgage on residential real property with a return date during the

19 period from July 1, 2008, to June 30, 2009, inclusive, shall be subject to
20 the provisions of subsection (b) of this section, and (2) any action for
21 the foreclosure of a mortgage on (A) residential real property with a
22 return date during the period from July 1, 2009, to June 30, [2016] 2019,
23 inclusive, or (B) real property owned by a religious organization with a
24 return date during the period from October 1, 2011, to June 30, [2016]
25 2019, inclusive, shall be subject to the provisions of subsection (c) of
26 this section.

27 (b) (1) Prior to July 1, [2016] 2019, when a mortgagee commences an
28 action for the foreclosure of a mortgage on residential real property
29 with a return date during the period from July 1, 2008, to June 30, 2009,
30 inclusive, the mortgagee shall give notice to the mortgagor of the
31 foreclosure mediation program established in section 49-31m by
32 attaching to the front of the foreclosure complaint that is served on the
33 mortgagor: (A) A copy of the notice of the availability of foreclosure
34 mediation, in such form as the Chief Court Administrator prescribes,
35 and (B) a foreclosure mediation request form, in such form as the Chief
36 Court Administrator prescribes.

37 (2) Except as provided in subdivision (3) of this subsection, a
38 mortgagor may request foreclosure mediation by submitting the
39 foreclosure mediation request form to the court and filing an
40 appearance not more than fifteen days after the return date for the
41 foreclosure action. Upon receipt of the foreclosure mediation request
42 form, the court shall notify each appearing party that a foreclosure
43 mediation request form has been submitted by the mortgagor.

44 (3) The court may grant a mortgagor permission to submit a
45 foreclosure mediation request form and file an appearance after the
46 fifteen-day period established in subdivision (2) of this subsection, for
47 good cause shown.

48 (4) No foreclosure mediation request form may be submitted to the
49 court under this subsection on or after July 1, [2016] 2019.

50 (5) If at any time on or after July 1, 2008, but prior to July 1, [2016]
51 2019, the court determines that the notice requirement of subdivision
52 (1) of this subsection has not been met, the court may, upon its own
53 motion or upon the written motion of the mortgagor, issue an order
54 that no judgment may enter for fifteen days during which period the
55 mortgagor may submit a foreclosure mediation request form to the
56 court.

57 (6) Notwithstanding any provision of the general statutes or any
58 rule of law to the contrary, prior to July 1, [2016] 2019, no judgment of
59 strict foreclosure nor any judgment ordering a foreclosure sale shall be
60 entered in any action subject to the provisions of this subsection and
61 instituted by the mortgagee to foreclose a mortgage on residential real
62 property unless: (A) Notice to the mortgagor has been given by the
63 mortgagee in accordance with subdivision (1) of this subsection and
64 the time for submitting a foreclosure mediation request form has
65 expired and no foreclosure mediation request form has been
66 submitted, or if such notice has not been given, the time for submitting
67 a foreclosure mediation request form pursuant to subdivision (2) or (3)
68 of this subsection has expired and no foreclosure mediation request
69 form has been submitted, or (B) the mediation period set forth in
70 subsection (b) of section 49-31n, as amended by this act, has expired or
71 has otherwise terminated, whichever is earlier.

72 (7) None of the mortgagor's or mortgagee's rights in the foreclosure
73 action shall be waived by the mortgagor's submission of a foreclosure
74 mediation request form to the court.

75 (c) (1) Prior to July 1, [2016] 2019, when a mortgagee commences an
76 action for the foreclosure of a mortgage on residential real property
77 with a return date on or after July 1, 2009, or, with respect to real
78 property owned by a religious organization, a return date on or after
79 October 1, 2011, the mortgagee shall give notice to the mortgagor of
80 the foreclosure mediation program established in section 49-31m by
81 attaching to the front of the writ, summons and complaint that is
82 served on the mortgagor: (A) A copy of the notice of foreclosure

83 mediation, in such form as the Chief Court Administrator prescribes,
84 (B) a copy of the foreclosure mediation certificate form described in
85 subdivision (3) of this subsection, in such form as the Chief Court
86 Administrator prescribes, (C) a blank appearance form, in such form as
87 the Chief Court Administrator prescribes, (D) with respect to an action
88 for the foreclosure of a mortgage on residential real property with a
89 return date on or after October 1, 2011, to September 30, 2013,
90 inclusive, a mediation information form and a notice containing
91 contact information for authority-approved consumer credit
92 counseling agencies, which form and notice shall be in such form as
93 the Chief Court Administrator prescribes, and which form shall be
94 designed to elicit current financial information and such other
95 nonfinancial information from the mortgagor as the Chief Court
96 Administrator, in consultation with representatives from the banking
97 industry and consumer advocates, determines will further the
98 objectives of the mediation program. The Chief Court Administrator
99 shall develop a premediation review protocol pursuant to which the
100 mediator shall request that any documents submitted to the mediator
101 for initial review that are incomplete, contain errors or are likely to be
102 found unacceptable by the mortgagee be completed or corrected and
103 that the completed or corrected documents be resubmitted to the
104 mediator for review. Such premediation review, including any
105 recommendations to complete or correct documents, shall not be
106 construed to be the practice of law on behalf of any party to the
107 mediation or the provision of legal advice by the mediator. The
108 instructions to the mediation information form shall explain that the
109 completed mediation information form, along with accompanying
110 documentation reasonably requested from the mortgagor by way of
111 such instructions, shall be delivered to the mortgagee's counsel not
112 later than fifteen business days prior to the date of the initial mediation
113 session, as identified in the notice provided pursuant to subdivision (2)
114 of subsection (c) of section 49-31n, as amended by this act, and (E) for
115 an action to foreclose a mortgage on residential real property with a
116 return date on or after October 1, 2013, the mediation information form
117 shall instruct the mortgagor as to the objectives of the mediation

118 program, explain the preliminary process of meeting with the
119 mediator as described in subdivision (4) of this subsection, instruct the
120 mortgagor to begin gathering financial documentation commonly used
121 in foreclosure mediation for use in meeting with the mediator and in
122 mediation, and include a notice containing contact information for
123 authority-approved consumer counseling agencies, which shall be in
124 such form as the Chief Court Administrator prescribes. The content of
125 the mediation information form shall be designed by the Chief Court
126 Administrator in consultation with representatives from the banking
127 industry and consumer advocates.

128 (2) The court shall issue a notice of foreclosure mediation described
129 in subdivision (3) of this subsection to the mortgagor not later than the
130 date three business days after the date the mortgagee returns the writ
131 to the court.

132 (3) The notice of foreclosure mediation shall instruct the mortgagor
133 to file the appearance and foreclosure mediation certificate forms with
134 the court not later than the date fifteen days from the return date for
135 the foreclosure action. With respect to actions with a return date [on or
136 after] during the period from October 1, 2011, to September 30, 2013,
137 inclusive, such notice shall remind the mortgagor to deliver the
138 completed mediation information form and the accompanying
139 documentation described in subdivision (1) of this subsection and
140 encourage such delivery in advance of the required date. With respect
141 to actions with a return date [on or after] during the period from
142 October 1, 2013, to June 30, [2016] 2019, inclusive, such notice shall
143 instruct the mortgagor to begin gathering financial information
144 commonly used in foreclosure mediation for use in meeting with the
145 mediator and in mediation. The mediation information form and
146 accompanying documentation shall not, without the explicit written
147 instruction of the mortgagor, be publicly available. Such notice of
148 foreclosure mediation shall be accompanied by materials from the
149 Department of Banking, as prescribed by the Chief Court
150 Administrator, which shall describe the community-based resources

151 available to the mortgagor, including authority-approved housing
152 counseling agencies that may assist with preparation for mediation
153 and application for mortgage assistance programs. The foreclosure
154 mediation certificate form shall require the mortgagor to provide
155 sufficient information to permit the court to confirm that the defendant
156 in the foreclosure action is a mortgagor, and to certify that said
157 mortgagor has sent a copy of the mediation certificate form to the
158 plaintiff in the action.

159 (4) Upon receipt of the mortgagor's appearance and foreclosure
160 mediation certificate forms, and provided the court confirms the
161 defendant in the foreclosure action is a mortgagor and that said
162 mortgagor has sent a copy of the mediation certificate form to the
163 plaintiff, the court shall assign the case to mediation and issue notice of
164 such assignment to all appearing parties, which notice shall include an
165 electronic mail address for all communications related to the
166 mediation. The court shall issue such notice not earlier than the date
167 five business days after the return date or by the date three business
168 days after the date on which the court receives the mortgagor's
169 appearance and foreclosure mediation certificate forms, whichever is
170 later, except that if the court does not receive the appearance and
171 foreclosure mediation certificate forms from the mortgagor by the date
172 fifteen days after the return date for the foreclosure action, the court
173 shall not assign the case to mediation. Promptly upon receipt of the
174 notice of assignment, but not later than the thirty-fifth day following
175 the return date, the mortgagee or its counsel shall deliver to the
176 mediator, via the electronic mail address provided for communications
177 related to the mediation, and to the mortgagor, via first class, priority
178 or overnight mail, (A) an account history identifying all credits and
179 debits assessed to the loan account and any related escrow account in
180 the immediately preceding twelve-month period and an itemized
181 statement of the amount required to reinstate the mortgage loan with
182 accompanying information, written in plain language, to explain any
183 codes used in the history and statement which are not otherwise self-
184 explanatory, (B) the name, business mailing address, electronic mail

185 address, facsimile number and direct telephone number of an
186 individual able to respond with reasonable adequacy and promptness
187 to questions relative to the information submitted to the mediator
188 pursuant to this subdivision, and any subsequent updates to such
189 contact information, which shall be provided reasonably promptly to
190 the mediator via the electronic mail address provided for
191 communication related to the mediation, (C) current versions of all
192 reasonably necessary forms and a list of all documentation reasonably
193 necessary for the mortgagee to evaluate the mortgagor for common
194 alternatives to foreclosure that are available through the mortgagee, if
195 any, (D) a copy of the note and mortgage, including any agreements
196 modifying such documents, (E) summary information regarding the
197 status of any pending foreclosure avoidance efforts being undertaken
198 by the mortgagee, (F) a copy of any loss mitigation affidavit filed with
199 the court, and (G) at the mortgagee's option, (i) the history of
200 foreclosure avoidance efforts with respect to the mortgagor, (ii)
201 information regarding the condition of mortgaged property, and (iii)
202 such other information as the mortgagee may determine is relevant to
203 meeting the objectives of the mediation program. Following the
204 mediator's receipt of such information, the court shall assign a
205 mediator to the mediation and schedule a meeting with the mediator
206 and the mortgagor and shall endeavor to [schedule] hold such meeting
207 on or prior to the forty-ninth day following the return date. The notice
208 of such meeting shall instruct the mortgagor to complete the forms
209 prior to the meeting and to furnish such forms together with the
210 documentation contained in the list, as provided by the mortgagee
211 following the filing of the foreclosure mediation certificate, at the
212 meeting. At such meeting, the mediator shall review such forms and
213 documentation with the mortgagor, along with the information
214 supplied by the mortgagee, in order to discuss the options that may be
215 available to the mortgagor, including any community-based resources,
216 and assist the mortgagor in completing the forms and furnishing the
217 documentation necessary for the mortgagee to evaluate the mortgagor
218 for alternatives to foreclosure. The mediator may elect to schedule
219 subsequent meetings with the mortgagor and determine whether any

220 mortgagor may be excused from an in-person appearance at such
221 subsequent meeting. [As soon as practicable, but in no case] Preferably
222 not later than the eighty-fourth day following the return date, or as
223 soon thereafter as may be practicable given the mediator's schedule
224 and the complexity of the mortgagor's financial circumstances and the
225 mortgagee's documentation requests, the mediator shall facilitate and
226 confirm the submission by the mortgagor of the forms and
227 documentation to the mortgagee's counsel via electronic means and, at
228 the mortgagee's election, directly to the mortgagee per the mortgagee's
229 instruction, and determine, based on the mortgagor's attendance at the
230 meetings and the extent the mortgagor completed the forms and
231 furnished the documentation contemplated in this subdivision, or
232 failed to perform such tasks through no material fault of the
233 mortgagee, and file a report with the court indicating, (I) whether
234 mediation shall be scheduled with the mortgagee, (II) whether the
235 mortgagor attended scheduled meetings with the mediator, (III)
236 whether the mortgagor fully or substantially completed the forms and
237 furnished the documentation requested by the mortgagee, (IV) the
238 date on which the mortgagee supplied the forms and documentation,
239 and (V) any other information the mediator determines to be relevant
240 to the objectives of the mediation program. No meeting or
241 communication between the mediator and mortgagor under this
242 subdivision shall be treated as an impermissible ex parte
243 communication. If the mediator determines that the mortgagee shall
244 participate in mediation, the court shall promptly issue notice to all
245 parties of such determination and schedule a mediation session
246 between the mortgagee and mortgagor in accordance with subsection
247 (c) of section 49-31n, as amended by this act, to be held not later than
248 five weeks following the submission to the mortgagee of the forms and
249 documentation contemplated in this subdivision. If the mediator
250 determines that no sessions between the mortgagee and mortgagor
251 shall be scheduled, the court shall promptly issue notice to all parties
252 regarding such determination and mediation shall be terminated. Any
253 mortgagor wishing to contest such determination shall petition the
254 court and show good cause for reinclusion in the mediation program,

255 including, but not limited to, a material change in financial
256 circumstances or a mistake or misunderstanding of the facts by the
257 mediator.

258 (5) Notwithstanding the provisions of this subsection, the court may
259 refer a foreclosure action brought by a mortgagee to the foreclosure
260 mediation program at any time, for good cause shown, provided the
261 mortgagor has filed an appearance in said action and further provided
262 the court shall, not later than the date three business days after the date
263 on which it makes such referral, send a notice to each appearing party
264 assigning the case to mediation and requiring the parties to participate
265 in the premediation process described in subdivision (4) of this
266 subsection, with the court establishing deadlines to ensure that the
267 premediation process is to be completed by the parties as
268 expeditiously as the circumstances warrant and permit. When
269 determining whether good cause exists, the court shall consider
270 whether the parties are likely to benefit from mediation and, in the
271 case of a referral after prior attempts at mediation have been
272 terminated, whether there has been a material change in
273 circumstances.

274 (6) Notwithstanding any provision of the general statutes or any
275 rule of law, prior to July 1, [2016] 2019, (A) for the period of time which
276 shall not exceed eight months from the return date, the mortgagor
277 shall be permitted to file an answer, special defenses or counterclaims,
278 but no mortgagee or mortgagor shall make any motion, request or
279 demand with respect to the other, except those motions, requests or
280 demands that relate to the mediation program described in section 49-
281 31m and the mediation sessions held pursuant to such program,
282 provided (i) a mortgagor seeking to contest the court's jurisdiction may
283 file a motion to dismiss and the mortgagee may object to such motion
284 to dismiss in accordance with applicable law and the rules of the
285 courts, and (ii) if the mortgagor elects to make any other motion,
286 request or demand with respect to the mortgagee, the eight-month
287 limit shall no longer apply to either party; and (B) no judgment of strict

288 foreclosure nor any judgment ordering a foreclosure sale shall be
289 entered in any action subject to the provisions of this subsection and
290 instituted by the mortgagee to foreclose a mortgage on residential real
291 property or real property owned by a religious organization unless: (i)
292 The mediation period set forth in subsection (c) of section 49-31n, as
293 amended by this act, has expired or has otherwise terminated,
294 whichever is earlier, and, if fewer than eight months has elapsed from
295 the return date at the time of termination, fifteen days have elapsed
296 since such termination and any pending motion or request to extend
297 the mediation period has been heard and denied by the court, or (ii)
298 the mediation program is not otherwise required or available. Nothing
299 in this subdivision shall affect any motion made or any default or
300 judgment entered on or before June 30, 2011.

301 (7) With respect to foreclosure actions with a return date [on or
302 after] during the period from July 1, 2011, to June 30, [2016] 2019,
303 inclusive, notwithstanding any provision of the general statutes or any
304 rule of law to the contrary, the mortgagee shall be permitted following
305 the eight-month or fifteen-day period described in subdivision (6) of
306 this subsection, to simultaneously file, as applicable, (A) a motion for
307 default, and (B) a motion for judgment of strict foreclosure or a motion
308 for judgment of foreclosure by sale with respect to the mortgagor in
309 the foreclosure action.

310 (8) None of the mortgagor's or mortgagee's rights in the foreclosure
311 action shall be waived by participation in the foreclosure mediation
312 program.

313 Sec. 3. Section 49-31n of the general statutes is repealed and the
314 following is substituted in lieu thereof (*Effective July 1, 2015*):

315 (a) Prior to July 1, [2016] 2019: (1) Any action for the foreclosure of a
316 mortgage on residential real property with a return date during the
317 period from July 1, 2008, to June 30, 2009, inclusive, shall be subject to
318 the provisions of subsection (b) of this section, and (2) any action for
319 the foreclosure of a mortgage on (A) residential real property with a

320 return date during the period from July 1, 2009, to June 30, [2016] 2019,
321 inclusive, or (B) real property owned by a religious organization with a
322 return date during the period from October 1, 2011, to June 30, [2016]
323 2019, inclusive, shall be subject to the provisions of subsection (c) of
324 this section.

325 (b) (1) For any action for the foreclosure of a mortgage on residential
326 real property with a return date during the period from July 1, 2008, to
327 June 30, 2009, inclusive, the mediation period under the foreclosure
328 mediation program established in section 49-31m shall commence
329 when the court sends notice to each appearing party that a foreclosure
330 mediation request form has been submitted by a mortgagor to the
331 court, which notice shall be sent not later than three business days after
332 the court receives a completed foreclosure mediation request form. The
333 mediation period shall conclude not later than the conclusion of the
334 third mediation session between the mortgagor and mortgagee or
335 seven months after the return date, whichever is earlier, except that the
336 court may, in its discretion, for good cause shown, upon the motion of
337 any party or the mediator, extend the mediation period subject to the
338 provisions of subdivision (9) of this subsection or shorten the
339 mediation period.

340 (2) The first mediation session shall be held not later than fifteen
341 business days after the court sends notice to all parties that a
342 foreclosure mediation request form has been submitted to the court.
343 The mortgagor and mortgagee shall appear in person at each
344 mediation session and shall have the ability to mediate, except that (A)
345 if a party is represented by counsel, the party's counsel may appear in
346 lieu of the party to represent the party's interests at the mediation,
347 provided the party has the ability to mediate, the mortgagor attends
348 the first mediation session in person, and the party is available (i)
349 during the mediation session by telephone, and (ii) to participate in the
350 mediation session by speakerphone, provided an opportunity is
351 afforded for confidential discussions between the party and party's
352 counsel, (B) following the initial mediation session, if there are two or

353 more mortgagors who are self-represented, only one mortgagor shall
354 be required to appear in person at each subsequent mediation session
355 unless good cause is shown, provided the other mortgagors are
356 available (i) during the mediation session, and (ii) to participate in the
357 mediation session by speakerphone, and (C) if a party suffers from a
358 disability or other significant hardship that imposes an undue burden
359 on such party to appear in person, the mediator may grant permission
360 to such party to participate in the mediation session by telephone. A
361 mortgagor's spouse, who is not a mortgagor but who lives in the
362 subject property, may appear at each mediation session, provided all
363 appearing mortgagors consent, in writing, to such spouse's appearance
364 or such spouse shows good cause for his or her appearance and the
365 mortgagors consent in writing to the disclosure of nonpublic personal
366 information to such spouse. If the mortgagor has submitted a complete
367 package of financial documentation in connection with a request for a
368 particular foreclosure alternative, the mortgagee shall have thirty-five
369 days from the receipt of the completed package to respond with a
370 decision and, if the decision is a denial of the request, provide the
371 reasons for such denial. If the mortgagor has, in connection with a
372 request for a foreclosure alternative, submitted a financial package that
373 is not complete, or if the mortgagee's evaluation of a complete package
374 reveals that additional information is necessary to underwrite the
375 request, the mortgagee shall request the missing or additional
376 information within a reasonable period of time of such evaluation. If
377 the mortgagee's evaluation of a complete package reveals that
378 additional information is necessary to underwrite the request, the
379 thirty-five-day deadline for a response shall be extended but only for
380 so long as is reasonable given the timing of the mortgagor's submission
381 of such additional information and the nature and context of the
382 required underwriting. Not later than the third business day after each
383 mediation session held on or after June 18, 2013, the mediator shall file
384 with the court a report indicating, to the extent applicable, (i) the
385 extent to which each of the parties complied with the requirements set
386 forth in this subdivision, including the requirement to engage in
387 conduct that is consistent with the objectives of the mediation program

388 and to possess the ability to mediate, (ii) whether the mortgagor
389 submitted a complete package of financial documentation to the
390 mortgagee, (iii) a general description of the foreclosure alternative
391 being requested by the mortgagor, (iv) whether the mortgagor has
392 previously been evaluated for similar requests, whether prior to
393 mediation or in mediation, and, if so, whether there has been any
394 apparent change in circumstances since a decision was made with
395 respect to that prior evaluation, (v) whether the mortgagee has
396 responded to the mortgagor's request for a foreclosure alternative and,
397 if so, a description of the response and whether the mediator is aware
398 of any material reason not to agree with the response, (vi) whether the
399 mortgagor has responded to an offer made by the mortgagee on a
400 reasonably timely basis, and if so, an explanation of the response, (vii)
401 whether the mortgagee has requested additional information from the
402 mortgagor and, if so, the stated reasons for the request and the date by
403 which such additional information shall be submitted so that
404 information previously submitted by the mortgagor, to the extent
405 possible, may still be used by the mortgagee in conducting its review,
406 (viii) whether the mortgagor has supplied, on a reasonably timely
407 basis, any additional information that was reasonably requested by the
408 mortgagee, and, if not, the stated reason for not doing so, (ix) if
409 information provided by the mortgagor is no longer current for
410 purposes of evaluating a foreclosure alternative, a description of the
411 out-of-date information and an explanation as to how and why such
412 information is no longer current, (x) whether the mortgagee has
413 provided a reasonable explanation of the basis for a decision to deny a
414 request for a loss mitigation option or foreclosure alternative and
415 whether the mediator is aware of any material reason not to agree with
416 that decision, (xi) whether the mortgagee has complied with the time
417 frames set forth in this subdivision for responding to requests for
418 decisions, (xii) if a subsequent mediation session is expected to occur, a
419 general description of the expectations for such subsequent session
420 and for the parties prior to such subsequent session and, if not
421 otherwise addressed in the report, whether the parties satisfied the
422 expectations set forth in previous reports, and (xiii) a determination of

423 whether the parties will benefit from further mediation. The mediator
424 shall deliver a copy of such report to each party to the mediation when
425 the mediator files the report. The parties shall have the opportunity to
426 submit their own supplemental information following the filing of the
427 report, provided such supplemental information shall be submitted
428 not later than five business days following the receipt of the mediator's
429 report. Any request by the mortgagee to the mortgagor for additional
430 or updated financial documentation shall be made in writing. The
431 court may impose sanctions on any party or on counsel to a party if
432 such party or such counsel engages in intentional or a pattern or
433 practice of conduct during the mediation process that is contrary to the
434 objectives of the mediation program. Any sanction that is imposed
435 shall be proportional to the conduct and consistent with the objectives
436 of the mediation program. Available sanctions shall include, but not be
437 limited to, terminating mediation, ordering the mortgagor or
438 mortgagee to mediate in person, forbidding the mortgagee from
439 charging the mortgagor for the mortgagee's attorney's fees, awarding
440 attorney's fees, and imposing fines. In the case of egregious
441 misconduct, the sanctions shall be heightened. The court shall not
442 award attorney's fees to any mortgagee for time spent in any
443 mediation session if the court finds that such mortgagee has failed to
444 comply with this subdivision, unless the court finds reasonable cause
445 for such failure.

446 (3) If the mediator reports to the court that the parties will not
447 benefit from further mediation, the mediation period shall terminate
448 automatically. If the mediator reports to the court after the first or
449 second mediation session that the parties may benefit from further
450 mediation, the mediation period shall continue.

451 (4) If the mediation period concludes and certain issues have not
452 been resolved pursuant to the mediation, the mediator may refer the
453 mortgagor to any appropriate community-based services that are
454 available.

455 (5) The Chief Court Administrator shall establish policies and

456 procedures to implement this subsection. Such policies and procedures
457 shall, at a minimum, provide that the mediator shall advise the
458 mortgagor at the first meeting required by subdivision (4) of
459 subsection (c) of section 49-31l, as amended by this act, that a judgment
460 of strict foreclosure or foreclosure by sale may cause the mortgagor to
461 lose the residential real property to foreclosure.

462 (6) In no event shall any determination issued by a mediator under
463 this program form the basis of an appeal of any foreclosure judgment.

464 (7) Foreclosure mediation request forms shall not be accepted by the
465 court under this subsection on or after July 1, [2016] 2019, and the
466 foreclosure mediation program shall terminate when all mediation has
467 concluded with respect to any applications submitted to the court prior
468 to July 1, [2016] 2019.

469 (8) At any time during the mediation period, the mediator may refer
470 a mortgagor who is the owner-occupant of one-to-four family
471 residential real property to the mortgage assistance programs, except
472 that any such referral shall not prevent a mortgagee from proceeding
473 to judgment when the conditions specified in subdivision (6) of
474 subsection (b) of section 49-31l, as amended by this act, have been
475 satisfied.

476 (9) (A) The mediation period shall conclude following the third
477 mediation session or if more than seven months have elapsed since the
478 return date. Not later than fifteen days following the conclusion of the
479 mediation period, and any extended mediation sessions held in
480 accordance with this subdivision, any party may move for, or the
481 mediator may request, an extension of the mediation period. The court
482 shall grant only one additional mediation session per motion or
483 request upon a finding that it is highly probable the parties will reach
484 an agreement through mediation. The court may also grant one
485 additional mediation session per motion or request upon a finding that
486 any party has engaged, either intentionally or by a pattern or practice,
487 in conduct that is contrary to the objectives of the mediation program.

488 The court shall make its ruling not later than twenty days after the
489 filing of such motion or request, and no judgment of strict foreclosure
490 or any judgment ordering a foreclosure sale shall be entered until (i)
491 the court denies the motion or request, or (ii) the conclusion of the
492 extended mediation session, except as provided in subparagraph (B) of
493 this subdivision. Upon the grant of an additional mediation session
494 following the proper finding, the court shall establish an expeditious
495 deadline for such extended mediation session to occur. Such extended
496 mediation period shall conclude following such extended mediation
497 session.

498 (B) The mediation period may be extended for one additional
499 mediation session without a hearing held pursuant to this subdivision
500 provided all parties to the mediation agree that such parties would
501 benefit from such a session and, in consultation with the mediator,
502 establish an expeditious deadline for such session to take place.

503 (C) To determine whether to extend mediation, the court may
504 consider all matters that have arisen in the mediation, including, but
505 not limited to, the number of motions to extend mediation, the reasons
506 for which an agreement has not been reached, the objectives of the
507 mediation program, the extent to which the parties will benefit from
508 further mediation, the reports submitted by the mediator, papers
509 submitted in connection with any motion, and any supplemental
510 reports submitted by a party. The court shall articulate its reasons in
511 the order granting or denying any such motion or request to extend
512 mediation.

513 (10) For any case pending as of October 1, 2013, in which mediation
514 is ongoing, (A) if three or fewer sessions have been held, such case
515 shall be treated as if no sessions have been held as of said date for
516 purposes of subdivision (9) of this subsection, and (B) if four or more
517 sessions have been held, then any party or the mediator may move to
518 terminate the mediation period or extend such period in accordance
519 with subdivision (9) of this subsection and, if no such motion to extend
520 is made, the mediation period shall conclude after the third mediation

521 session occurring after October 1, 2013.

522 (c) (1) For any action for the foreclosure of a mortgage on residential
523 real property with a return date during the period from July 1, 2009, to
524 June 30, [2016] 2019, inclusive, or for any action for the foreclosure of a
525 mortgage on real property owned by a religious organization with a
526 return date during the period from October 1, 2011, to June 30, [2016]
527 2019, inclusive, the mediation period under the foreclosure mediation
528 program established in section 49-31m shall commence when the court
529 sends notice to each appearing party scheduling the first foreclosure
530 mediation session. The mediation period shall conclude not later than
531 the conclusion of the third mediation session between the mortgagor
532 and mortgagee or seven months after the return date, whichever is
533 earlier, except that the court may, in its discretion, for good cause
534 shown, upon the motion of any party or request by the mediator,
535 extend the mediation period subject to the provisions of subdivision
536 (9) of this subsection or shorten the mediation period.

537 (2) The mortgagor and mortgagee shall appear in person at each
538 mediation session and shall have the ability to mediate, except that (A)
539 if a party is represented by counsel, the party's counsel may appear in
540 lieu of the party to represent the party's interests at the mediation,
541 provided the party has the ability to mediate, the mortgagor attends
542 the first mediation session in person and the party is available (i)
543 during the mediation session by telephone, and (ii) to participate in the
544 mediation session by speakerphone, provided an opportunity is
545 afforded for confidential discussions between the party and party's
546 counsel, (B) following the initial mediation session, if there are two or
547 more mortgagors who are self-represented, only one mortgagor shall
548 be required to appear in person at each subsequent mediation session
549 unless good cause is shown, provided the other mortgagors are
550 available (i) during the mediation session, and (ii) to participate in the
551 mediation session by speakerphone, and (C) if a party suffers from a
552 disability or other significant hardship that imposes an undue burden
553 on such party to appear in person, the mediator may grant permission

554 to such party to participate in the mediation session by telephone. A
555 mortgagor's spouse, who is not a mortgagor but who lives in the
556 subject property, may appear at each mediation session, provided all
557 appearing mortgagors consent, in writing, to such spouse's appearance
558 or such spouse shows good cause for his or her appearance and the
559 mortgagors consent, in writing, to the disclosure of nonpublic personal
560 information to such spouse. If the mortgagor has submitted a complete
561 package of financial documentation in connection with a request for a
562 particular foreclosure alternative, the mortgagee shall have thirty-five
563 days from the receipt of the completed package to respond with a
564 decision and, if the decision is a denial of the request, provide the
565 reasons for such denial. If the mortgagor has, in connection with a
566 request for a foreclosure alternative, submitted a financial package that
567 is not complete, or if the mortgagee's evaluation of a complete package
568 reveals that additional information is necessary to underwrite the
569 request, the mortgagee shall request the missing or additional
570 information within a reasonable period of time of such evaluation. If
571 the mortgagee's evaluation of a complete package reveals that
572 additional information is necessary to underwrite the request, the
573 thirty-five-day deadline for a response shall be extended but only for
574 so long as is reasonable given the timing of the mortgagor's submission
575 of such additional information and the nature and context of the
576 required underwriting. Not later than the third business day after each
577 mediation session, the mediator shall file with the court a report
578 indicating, to the extent applicable, (i) the extent to which each of the
579 parties complied with the requirements set forth in this subdivision,
580 including the requirement to engage in conduct that is consistent with
581 the objectives of the mediation program and to possess the ability to
582 mediate, (ii) whether the mortgagor submitted a complete package of
583 financial documentation to the mortgagee, (iii) a general description of
584 the foreclosure alternative being requested by the mortgagor, (iv)
585 whether the mortgagor has previously been evaluated for similar
586 requests, whether prior to mediation or in mediation, and, if so,
587 whether there has been any apparent change in circumstances since a
588 decision was made with respect to that prior evaluation, (v) whether

589 the mortgagee has responded to the mortgagor's request for a
590 foreclosure alternative and, if so, a description of the response and
591 whether the mediator is aware of any material reason not to agree with
592 the response, (vi) whether the mortgagor has responded to an offer
593 made by the mortgagee on a reasonably timely basis, and if so, an
594 explanation of the response, (vii) whether the mortgagee has requested
595 additional information from the mortgagor and, if so, the stated
596 reasons for the request and the date by which such additional
597 information shall be submitted so that information previously
598 submitted by the mortgagor, to the extent possible, may still be used
599 by the mortgagee in conducting its review, (viii) whether the
600 mortgagor has supplied, on a reasonably timely basis, any additional
601 information that was reasonably requested by the mortgagee, and, if
602 not, the stated reason for not doing so, (ix) if information provided by
603 the mortgagor is no longer current for purposes of evaluating a
604 foreclosure alternative, a description of the out-of-date information
605 and an explanation as to how and why such information is no longer
606 current, (x) whether the mortgagee has provided a reasonable
607 explanation of the basis for a decision to deny a request for a loss
608 mitigation option or foreclosure alternative and whether the mediator
609 is aware of any material reason not to agree with that decision, (xi)
610 whether the mortgagee has complied with the time frames set forth in
611 this subdivision for responding to requests for decisions, (xii) if a
612 subsequent mediation session is expected to occur, a general
613 description of the expectations for such subsequent session and for the
614 parties prior to such subsequent session and, if not otherwise
615 addressed in the report, whether the parties satisfied the expectations
616 set forth in previous reports, and (xiii) a determination of whether the
617 parties will benefit from further mediation. The mediator shall deliver
618 a copy of such report to each party to the mediation when the mediator
619 files the report. The parties shall have the opportunity to submit their
620 own supplemental information following the filing of the report,
621 provided such supplemental information shall be submitted not later
622 than five business days following the receipt of the mediator's report.
623 Any request by the mortgagee to the mortgagor for additional or

624 updated financial documentation shall be made in writing. The court
625 may impose sanctions on any party or on counsel to a party if such
626 party or such counsel engages in intentional or a pattern or practice of
627 conduct during the mediation process that is contrary to the objectives
628 of the mediation program. Any sanction that is imposed shall be
629 proportional to the conduct and consistent with the objectives of the
630 mediation program. Available sanctions shall include, but not be
631 limited to, terminating mediation, ordering the mortgagor or
632 mortgagee to mediate in person, forbidding the mortgagee from
633 charging the mortgagor for the mortgagee's attorney's fees, awarding
634 attorney's fees, and imposing fines. In the case of egregious
635 misconduct, the sanctions shall be heightened. The court shall not
636 award attorney's fees to any mortgagee for time spent in any
637 mediation session if the court finds that such mortgagee has failed to
638 comply with this subdivision, unless the court finds reasonable cause
639 for such failure.

640 (3) If the mediator reports to the court that the parties will not
641 benefit from further mediation, the mediation period shall terminate
642 automatically. If the mediator reports to the court after the first or
643 second mediation session that the parties may benefit from further
644 mediation, the mediation period shall continue.

645 (4) If the mediation period concludes and certain issues have not
646 been resolved pursuant to the mediation, the mediator may refer the
647 mortgagor to any appropriate community-based services that are
648 available in the judicial district, but any such referral shall not cause a
649 delay in the mediation process.

650 (5) The Chief Court Administrator shall establish policies and
651 procedures to implement this subsection. Such policies and procedures
652 shall, at a minimum, provide that the mediator shall advise the
653 mortgagor at the first meeting required by subdivision (4) of
654 subsection (c) of section 49-31~~/~~, as amended by this act, that: (A) Such
655 mediation does not suspend the mortgagor's obligation to respond to
656 the foreclosure action beyond the limited time frame described in

657 subdivision (6) of subsection (c) of section 49-31l, as amended by this
658 act; and (B) a judgment of strict foreclosure or foreclosure by sale may
659 cause the mortgagor to lose the residential real property or real
660 property owned by a religious organization to foreclosure.

661 (6) In no event shall any determination issued by a mediator under
662 this program form the basis of an appeal of any foreclosure judgment.

663 (7) The foreclosure mediation program shall terminate when all
664 mediation has concluded with respect to any foreclosure action with a
665 return date during the period from July 1, 2009, to June 30, [2016] 2019,
666 inclusive.

667 (8) At any time during the mediation period, the mediator may refer
668 a mortgagor who is the owner-occupant of one-to-four family
669 residential real property to the mortgage assistance programs, except
670 that any such referral shall not prevent a mortgagee from proceeding
671 to judgment when the conditions specified in subdivision (6) of
672 subsection (c) of section 49-31l, as amended by this act, have been
673 satisfied.

674 (9) (A) The mediation period shall conclude following the third
675 mediation session or if more than seven months have elapsed since the
676 return date. Not later than fifteen days following the conclusion of the
677 mediation period, and any subsequent extended mediation sessions
678 held in accordance with this subdivision, any party may move for, or
679 the mediator may request, an extension of the mediation period. The
680 court shall grant only one additional mediation session per motion or
681 request upon a finding that it is highly probable the parties will reach
682 an agreement through mediation. The court may also grant one
683 additional mediation session per motion or request upon a finding that
684 any party has engaged, either intentionally or by a pattern or practice,
685 in conduct that is contrary to the objectives of the mediation program.
686 The court shall make its ruling not later than twenty days after the
687 filing of such motion or request, and no judgment of strict foreclosure
688 or any judgment ordering a foreclosure sale shall be entered until (i)

689 the court denies the motion or request, or (ii) the conclusion of the
690 subsequent extended mediation session, except as provided in
691 subparagraph (B) of this subdivision. Upon the grant of an additional
692 mediation session following the proper finding, the court shall
693 establish a reasonably expeditious deadline for such subsequent
694 extended mediation session to occur. Such extended mediation period
695 shall conclude following such subsequent extended mediation session.

696 (B) The mediation period may be extended for one additional
697 mediation session without a hearing held pursuant to this subdivision
698 provided all parties to the mediation agree that such parties would
699 benefit from such a session and, in consultation with the mediator,
700 establish a reasonably expeditious deadline for such session to take
701 place.

702 (C) To determine whether to extend mediation, the court may
703 consider all matters that have arisen in the mediation, including, but
704 not limited to, the number of motions to extend mediation, the reasons
705 for which an agreement has not been reached, the objectives of the
706 mediation program, the extent to which the parties will benefit from
707 further mediation, the reports submitted by the mediator, papers
708 submitted in connection with any motion, and any supplemental
709 reports submitted by a party. The court shall articulate its reasons in
710 the order granting or denying any such motion or request to extend
711 mediation.

712 (10) For any case pending as of October 1, 2013, in which mediation
713 is ongoing, (A) if three or fewer sessions have been held, such case
714 shall be treated as if no sessions have been held as of said date for
715 purposes of subdivision (9) of this subsection, and (B) if four or more
716 sessions have been held, then any party or the mediator may move to
717 terminate the mediation period or extend such period in accordance
718 with subdivision (9) of this subsection and, if no such motion to extend
719 is made, the mediation period shall conclude after the third mediation
720 session occurring after October 1, 2013.

721 (d) (1) Not later than February 14, 2014, the Chief Court
722 Administrator shall submit, in accordance with the provisions of
723 section 11-4a, to the joint standing committee of the General Assembly
724 having cognizance of matters relating to [banks] banking, a summary
725 regarding the mediation program and a general summary of the data
726 collected in the reports submitted pursuant to subdivision (2) of
727 subsections (b) and (c) of this section from July 1, 2013, to December
728 31, 2013, inclusive. Such summaries shall include, but not be limited to,
729 the aggregate data regarding the number of cases in mediation, the
730 number of mediation sessions held, the number of agreements reached
731 before the conclusion of the mediation period, the number of motions
732 or requests for an extension or continuance and the identity of the
733 party that made such a motion or request, whether the loan at issue
734 was serviced by a third party, the judicial district in which the
735 mediation took place and whether the mortgagor was self-represented.

736 (2) Not later than [February 14, 2015] February 16, 2016, and by
737 February sixteenth each year thereafter until February 16, 2019,
738 inclusive, the Chief Court Administrator shall submit, in accordance
739 with the provisions of section 11-4a, to the joint standing committee of
740 the General Assembly having cognizance of matters relating to [banks]
741 banking, a summary of the reports submitted from July 1, 2013, to
742 December [31, 2014] thirty-first of the immediately preceding year,
743 inclusive, pursuant to subdivision (2) of subsections (b) and (c) of this
744 section. The detailed data points for such summary, including data to
745 be collected but not reported, shall be developed by the Chief Court
746 Administrator in consultation with representatives from the
747 Governor's office, the Department of Banking, the banking industry
748 and consumer advocates.

749 Sec. 4. Section 49-31v of the general statutes is repealed and the
750 following is substituted in lieu thereof (*Effective July 1, 2015*):

751 The foreclosure mediation program established pursuant to section
752 49-31m shall be funded within available appropriations and available
753 until June 30, [2016] 2019. The size of such program shall be

754 determined by available funding and the number and need of
755 participants in such program.

This act shall take effect as follows and shall amend the following sections:		
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Section 1	<i>July 1, 2015</i>	49-31k(1)
Sec. 2	<i>July 1, 2015</i>	49-31l
Sec. 3	<i>July 1, 2015</i>	49-31n
Sec. 4	<i>July 1, 2015</i>	49-31v

Statement of Legislative Commissioners:

In Section 3(d)(2), "February 16, 2015" was changed to "February 16, 2016" for clarity and accuracy.

BA *Joint Favorable Subst.*